

REMARKS

The foregoing amendments and these remarks are in response to the Final Office Action dated April 12, 2006. This amendment is filed with a request for extension of time of one month, and the appropriate fee therefor.

Claims 64-75, 77-80 and 81 are pending in this application. Claims 79-81 are newly added by this Amendment and includes features taken from independent claim 64. Claims 64-75, 77 and 78 are rejected under 35 U.S.C. §103(a). Reconsideration and allowance of the rejected claims are respectfully requested.

Applicants thank the Examiner for the courtesies extended to Applicants' representative during the personal interview conducted on July 13, 2006. During the interview, Applicants representative proposed amending the claims as shown herein and argued that the applied references disclose using bolts to fasten the top deck and the bottom deck to the support blocks. By contrast, the invention allows only nails to be used to fasten the at least one top support member and the at least bottom support member to the support blocks.

The foregoing amendments and these remarks are in response to the Final Office Action dated April 12, 2006.

Rejections on Art

Claims 64 and 68-77 remain rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 5,191,843 to Ausavich et al. Applicants respectfully traverse this rejection.

Claim 64 recites, among other things, that the support blocks are solid and that a plurality of fasteners are provided to fasten the at least one top support member and the at least bottom support member to the solid support blocks, wherein the plurality of fasteners consist of nails. In other words, the claimed invention allows only nails to be used to fasten the at least one top support member and the at least bottom support member to the solid support blocks. This is due at least to the increased nail retention strength provided by the composite material (see the specification at page 8, lines 3-4 and 8-10). The invention removes the need to provide openings to receive bolts or other fastening means, ensuring that the support blocks are easy and inexpensive to produce, and can be easily and inexpensively fixed in place using nails.

By contrast, Ausavich et al. requires the use of bolts to fasten the top deck and the bottom deck to the support blocks. In particular, Ausavich et al. discloses that the "molded plastic pallet spacer feet 1, are attached to the pallet platform board 3, and pallet runners 2 by means of a *through bolt* 5" (emphasis added, see Ausavich et al., col. 5, lines 1-3). While Ausavich et al. disclose using nails in addition to bolts, Ausavich et al. discloses that "the nails of this invention are mounted as described to hold runners rigid, and to prevent warpage of these components" (see Ausavich et al., col. 5, lines 26-28). Thus, Ausavich et al. is at least deficient because it discloses using bolts to fasten the top deck and the bottom deck to the support blocks and using nails merely to prevent warpage of the pallet runners.

Furthermore, Ausavich et al. is deficient at least because it fails to teach or suggest solid support blocks. Rather, Ausavich et al. discloses that the pallet spacer foot 1 includes "*hollow cylindrical segments* 12, one on each side of the central vertical section 10 on the long axis of the modified oblate spheroid of the pallet foot 1" (emphasis added, see Ausavich et al., col. 4, lines 42-52). The hollow cylindrical segments 12 prevent the use of nails on a top surface of the pallet spacer foot 1.

Additionally, Examiner acknowledges that Ausavich et al. is deficient because it "fails to teach specific densities/particle diameters for the materials and/or concentrations of materials used in the blocks" and submits that "it would have been an obvious design consideration" (see page 2 of the Office Action dated April 12, 2006). While Applicants respectfully disagree with the Examiner's assertion that these features are obvious design considerations, the removal of these features from independent claim 64 renders the argument moot.

For at least the foregoing reasons, Applicants respectfully submit that the Examiner has failed to establish a *prima facie* case of obviousness of claim 64 under 35 U.S.C. §103(a) based on Ausavich et al. Claims 68-77 depend from claim 64 and are therefore allowable at least by virtue of their dependency. Furthermore, new claims 79-81 depend from claim 64 are also allowable at least by virtue of their dependency.

Claims 65-67 remain rejected under 35 U.S.C. §103(a) as being obvious over Ausavich et al. in view of British Patent No. 832,844 to Holzwerke Zapfendorf (hereafter "Holzwerke"). Applicants respectfully traverse this rejection.

Claims 65-67 depend either directly or indirectly from claim 64 and therefore include, among other things, the recitations that the support blocks are solid and that a plurality of fasteners are provided to fasten the at least one top support member and the at least bottom support member to the solid support blocks, wherein the plurality of fasteners consist of nails.

As discussed above, Ausavich et al. fails to teach or suggest these features. Holzwerke discloses spacing blocks for pallets that use a continuous metal sleeve 3 or a lock screw 6 that are inserted into cylindrical cavities 7 formed in blocks 1,2 (see Holzwerke, page 2, lines 105-115 and 122-126; and FIGs. 2, 3a, 3b, 4a, and 4b). Thus, Holzwerke is deficient at least because it discloses using a metal sleeve or a lock screw, rather than *nails*, to fasten the top deck and the bottom deck to the support blocks. Furthermore, Holzwerke is deficient at least because it discloses that blocks 1,2 include cylindrical cavities 7 and are not solid.

Additionally, the Examiner acknowledges that "for claim 65, Ausavich fails to specifically teach three rows of three blocks and for claim 67 [Ausavich] fails to teach three upper cross members" and relies on Holzwerke for disclosing these features (see page 2 of the Office Action dated April 12, 2006). Assuming, *arguendo*, that Holzwerke discloses these features, it remains that Ausavich et al. and Holzwerke are deficient, both alone and in combination, because they fail to teach or suggest at least support blocks that are solid and a plurality of fasteners that are provided to fasten the at least one top support member and the at least bottom support member to the solid support blocks, wherein the plurality of fasteners consist of nails.

For at least the foregoing reasons, Applicants respectfully submit that the Examiner has failed to establish a *prima facie* case of obviousness of claims 65-67 under 35 U.S.C. §103(a) based on Ausavich et al. in view of Holzwerke.

Claim 78 remains rejected under 35 U.S.C. §103(a) as being obvious over Ausavich et al. in view of U.S. Patent No. 5,351,628 to Breezer et al. Applicants respectfully traverse this rejection.

Claim 78 depends indirectly from claim 64 and therefore includes, among other things, the recitations that the support blocks are solid and that a plurality of fasteners are provided to fasten the at least one top support member and the at least bottom support member to the solid support blocks, wherein the plurality of fasteners consist of nails.

As discussed above, Ausavich et al. fails to teach or suggest these features. Breezer et al. discloses a wood pallet having plastic spacer blocks that include two bolt holes which guide bolts as they pass from the upper deck to the lower deck and hold the bolts in a fixed spaced relation (see Breezer et al., col. 1, lines 50-53). Breezer et al. further discloses that bolts are attached to the bottom stringer boards and the tie boards and are held in fixed relation by the spacer blocks (see Breezer et al., col. 1, lines 53-56). Thus, the Breezer et al. reference is deficient at least because it discloses using a bolts, rather than *nails*, to fasten the upper deck to the lower deck, which pass through the support blocks. Furthermore, the Breezer et al. reference is deficient at least because it discloses hollow plastic blocks 34,36 (see FIGs. 2, 3 and 4) rather than solid blocks.

Additionally, the Examiner acknowledges that Ausavich et al. "fails to specifically teach that the ends of the third and fourth sides are also flat" and relies on Breezer et al. for allegedly disclosing this feature (see page 4 of the Office Action dated April 12, 2006). Assuming, *arguendo*, that Breezer et al. discloses this feature, it remains that Ausavich et al. and Breezer et al. are deficient, both alone and in combination, because they fail to teach or suggest at least support blocks that are solid and a plurality of fasteners that are provided to fasten the at least one top support member and the at least bottom support member to the solid support blocks, wherein the plurality of fasteners consist of nails.

For at least the foregoing reasons, Applicants respectfully submit that the Examiner has failed to establish a *prima facie* case of obviousness of claim 78 under 35 U.S.C. §103(a) based on Ausavich et al. in view of Breezer et al.


U.S. Patent Appln. No. 10/660,067
Amendment
Response to Office Action of April 12, 2006

Docket No. 7001-72

Applicants have made every effort to present claims which distinguish over the prior art, and it is thus believed that all claims are in condition for allowance. Nevertheless, Applicants invite the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. In view of the foregoing remarks, Applicants respectfully request reconsideration and prompt allowance of the pending claims.

Respectfully submitted,

Date: 7-21-06


Mark D. Passler
Registration No. 40,764
Sean L. Ingram
Registration No. 48,283
AKERMAN SENTERFITT
Post Office Box 3188
West Palm Beach, FL 33402-3188
Telephone: (561) 653-5000

Docket No. 7001-72